IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

Crl.MC.No. 2640 of 2007()

CRIMENO. 1005/07 OF PERUMBAVOOR POLICE STATION

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PETITIONER: 1ST ACCUSED

RASHEED, AGED 45, S/O C.M.PAREEKUTTY,
KODAKUTHUMPARAMBU, H.NO.5/1543,
NEAR MASS LP SCHOOL, MATTANCHERRY.

BY ADV. SRI.A.B.JALEEL
SRI.K.THAVAMONY

RESPONDENTS:

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1. THE SUB INSPECTOR OF POLICE,
PERUMBAVOOR.

2. BOLQUEZ KHAN, AGED 46,
W/O AZEEZ KHAN, H.NO.11/714, BISHOP GARGEN,
PATHALAM, KOCHI.

3. THE STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

R1 & 3 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2640 of 2007

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Dated this the 20th day of August, 2007

O R D E R

The petitioner is the first accused in a crime registered, inter alia, under Sections 420 and 468 I.P.C. The crime has been registered on the basis of a private complaint filed before the learned Magistrate and referred by the learned Magistrate under Section 156 (3) Cr.P.C. to the police. The crux of the allegations raised by the defacto complainant is that the defacto complainant is the owner of an item of property. She has not alienated or assigned her right to any one. A forged document has been created to make it appear that she had executed a document assigning the property to the third accused. The petitioner and other four accused in the crime have allegedly culpable and contumacious responsibility for such forged document created. Investigation is in progress.

2. The petitioner has now come to this Court with a prayer that the F.I.R. may be quashed invoking the powers under Section 482 Cr.P.C. What is the reason? On what ground can the F.I.R. be quashed? The learned counsel for the petitioner submits that one Moosa, under whom the defacto complainant allegedly claims rights,

has filed a civil suit to set aside the document, under which Moosa is alleged to have assigned the property to the defacto complainant. The mere filing of a suit by such assignor cannot at any rate knock the bottom out of the complaint filed by the defacto complainant. The police will have to investigate into the crime and decide whether the defacto complainant had executed the document conveying her title to the third accused or not. The first reason urged that Moosa has filed a civil suit cannot, in these circumstances, justify the prayer for quashing the F.I.R.

3. Secondly it is contended that the investigators have not so far been able to collect any material against any of the accused. Investigation is in progress and at this stage merely because the investigators have not collected any information or arrested any person including the five persons shown as accused in the complaint is again no reason to quash the complaint.

4. The learned counsel for the petitioner then submits that the police is after the petitioner and the petitioner apprehends that he may be arrested. That apprehension also cannot justify the prayer for quashing the F.I.R. The petitioner can surrender before the Investigating Officer or the learned Magistrate and seek regular bail. He has, of course, the option under

Section 438 Cr.P.C. to attempt to claim anticipatory bail. The apprehension of arrest by the petitioner is also not a valid ground to quash the F.I.R.. registered against him.

5. Having considered all the relevant inputs, I am of the opinion that no circumstances have been shown to exist which would justify the invocation of the extra ordinary inherent jurisdiction under Section 482 Cr.P.C. to quash the F.I.R. registered in which the petitioner is shown as the first accused.

6. This Crl.M.C. is accordingly dismissed.

(R. BASANT)
Judge

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